

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jan 15, 2021

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES DEAN CLOUD (01) and
DONOVAN QUINN CARTER
CLOUD (02),

Defendants.

No. 1:19-cr-02032-SMJ-1

1:19-cr-02032-SMJ-2

**ORDER GRANTING DEFENDANT
DONOVAN QUINN CARTER
CLOUD'S (02) MOTION TO
CONTINUE**

**AMENDED¹ CASE
MANAGEMENT ORDER**

Before the Court, without oral argument, is Defendant Donovan Quinn Carter Cloud (02)'s Motion to Continue Trial, ECF No. 274. Defendant James Dean Cloud moved to join, ECF No. 279, which this court granted, ECF No. 283. Defense counsel Richard A. Smith and Mark A. Larranga request a continuance of the pretrial motions filing deadline, the pretrial conference, and the trial, to allow more time to examine discovery, prepare any related motions, and prepare for trial. Additionally, defense counsel indicate additional time is needed given the disruptions caused by the ongoing Coronavirus Disease 2019 (COVID-19) pandemic. ECF No. 274. Defendant Cloud (02) supports counsel's request for a

¹ This Order amends and supersedes in part the Court's original Case Management Orders, ECF Nos. 31, 45.

1 trial continuance for the articulated reasons. ECF No. 288. Defendant Cloud (01)
2 orally agreed to the continuance, but counsel has been unable to contact him to
3 obtain a statement of reasons in support due to communication restrictions
4 stemming from the pandemic. Tr. (Dec. 15, 2020); ECF No. 287, 290, 291 & 293.
5 To date, the Court has not received Defendant Cloud (01)'s statement of reasons
6 in support, but because trial is set for next week, the Court will move forward with
7 granting the continuance as previously agreed. Tr. (Dec. 15, 2020). Assistant U.S.
8 Attorney Richard C. Burson and Thomas J. Hanlon, appearing on behalf of the
9 Government, do not oppose the request. Tr. (Dec. 15, 2020).

10 A Third Superseding Indictment was filed against Defendants (01) and (02)
11 on November 17, 2020. ECF No. 242. Defense counsel Richard A. Smith
12 appeared for Defendant Cloud (02) on February 13, 2020. ECF No. 142. Lorinda
13 M. Youngcourt and Jeremy B. Sporn appeared for Defendant Cloud (01) on
14 February 12, 2020. ECF No. 140. This is Defendant Cloud's (02) third request for
15 a continuance. This is the fourth overall request for a continuance in this matter.

16 To ensure defense counsel is afforded adequate time to review discovery,
17 prepare any pretrial motions, conduct investigation, and prepare for trial, the Court
18 grants the motion, extends the pretrial motion deadline, and resets the currently-
19 scheduled pretrial conference and trial dates. The Court finds that Defendants'
20 continuance request is knowing, intelligent, and voluntary, and that the ends of

1 justice served by granting a continuance outweigh the best interest of the public
2 and Defendants in a speedy trial. The delay resulting from Defendants' motion is
3 therefore excluded under the Speedy Trial Act.

4 Counsel are advised that successive continuance requests will be closely
5 scrutinized for the necessity of more time to effectively prepare, taking into
6 account the exercise of due diligence. Furthermore, to ensure this matter is
7 resolved in an expeditious manner, and given the length of the continuance now
8 granted, the Court considers it appropriate to schedule intermediate status
9 conferences. At these conferences the parties should appear and be prepared to
10 discuss the status of the case, trial preparation, anticipated motions, and any other
11 matter that may affect trial readiness.

12 Having considered the parties' proposed case schedule and deadlines, the
13 Court now enters the following Amended Case Management Order, which sets
14 forth the deadlines, hearings, and requirements the parties will observe in this
15 matter. To the extent this Order conflicts with any previously entered Orders in
16 this matter, this Order shall govern. All counsel are expected to carefully read and
17 abide by this Order and such provisions of the current CMO which have not been
18 superseded hereby. The Court will grant relief from the requirements in this Order
19 only upon motion and good cause shown.

20 Accordingly, **IT IS HEREBY ORDERED:**

1 **1.** Defendants Clouds' (01) & (02) Motion to Continue Trial, **ECF No.**
2 **274**, is **GRANTED**.

3 **2.** The Court finds, given defense counsel's need for time to review
4 discovery, prepare any pretrial motions, conduct investigation, and
5 prepare for trial, that failing to grant a continuance would result in a
6 miscarriage of justice and would deny defense counsel the reasonable
7 time necessary for effective preparation, taking into account the
8 exercise of due diligence. *See* 18 U.S.C. § 3161(h)(7)(B)(i), (iv). The
9 Court, therefore, finds the ends of justice served by granting a
10 continuance in this matter outweigh the best interest of the public and
11 Defendant in a speedy trial. *See* 18 U.S.C. § 3161(h)(7)(A).

12 **3.** **Original CMO.** Counsel must review the provisions of the original
13 June 18, 2019 CMO, ECF No. 31, and July 8, 2019 CMO, ECF No.
14 45, and abide by those procedures which remain in full force and
15 effect and are incorporated herein except for the new compliance
16 deadlines in the following Summary of Amended Deadlines.

17 **4. Pretrial Conference**

18 **A.** A pretrial conference in this matter is **SET** for **January 25,**
19 **2022** at **9:00 A.M.** in **YAKIMA**. At this hearing, the Court
20 will hear **ALL** pretrial motions that are noted for oral

1 argument.

2 **B.** All Pretrial Conferences are scheduled to last no more than
3 **thirty (30) minutes**, with each side allotted **fifteen (15)**
4 **minutes** to present their own motions and resist motions by
5 opposing counsel. If any party anticipates requiring longer than
6 fifteen minutes, that party must notify the Courtroom Deputy
7 at least seven (7) days prior to the hearing. **Any party who**
8 **fails to provide this notice will be limited to fifteen (15)**
9 **minutes.**

10 **5. Trial.** The current trial date of January 19, 2021 is **STRICKEN** and
11 **RESET to February 28, 2022**, at **9:00 A.M.** in **YAKIMA**. The **final**
12 pretrial conference will begin at **8:30 A.M.**

13 **6.** Pursuant to 18 U.S.C. § 3161(h)(7)(B)(i) and (iv), the Court
14 **DECLARES EXCLUDABLE from Speedy Trial Act calculations**
15 the period from **December 8, 2020**, the date defense counsel moved
16 to continue, through **February 28, 2022**, the new trial date, as the
17 period of delay granted for adequate preparation by counsel.

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7. Summary of Deadlines


Status Conference: ²	May 18, 2021 10:00 A.M. - Yakima
Status Conference:	July 20, 2021 9:00 A.M. - Yakima
Rule 16 expert summaries produced to other parties and email to Court: USAO's Experts: Defendant's Experts: USAO's Rebuttal Experts:	August 6, 2021 August 20, 2021 August 27, 2021
Discovery Deadline	October 1, 2021
Status Conference:	October 19, 2021 9:00 A.M. - Yakima
Jury Questionnaire: Motion and Briefing Deadline	October 25, 2021
CIs' identities and willingness to be interviewed disclosed to Defendants (if applicable)	December 3, 2021
Grand jury transcripts produced to Defendants Case Agent: CIs: Other Witnesses:	December 3, 2021 December 3, 2021 December 3, 2021
Government's FRE 404(b) Notice	December 3, 2021
Status Conference:	December 21, 2021 9:00 A.M. - Yakima

² Generally, all motions set for oral argument shall be noted for a hearing at a status conference or pretrial conference provided in this summary of deadlines. Any motion set for oral argument shall be filed at least five-weeks prior to any status conference. Given the nature of this case, the responding party shall have two weeks to respond, and the moving party shall have one week to reply. Unless a party moves for the Court to hear a motion on an expedited basis, the Court shall require the parties to follow this briefing schedule for any motions set for oral argument.

1	All pretrial motions, including discovery motions, <i>Daubert</i> motions, and motions <i>in</i>	
2	<i>limine</i> , filed-limited to legal issues, facts, evidence, and discovery obtained/disclosed after	January 4, 2022
3	September 17, 2021	
4	Exhibit lists filed and emailed to the Court	January 7, 2022
5	Witness lists filed and emailed to the Court	January 7, 2022
6	Government's <i>Henthorn</i> Disclosure Deadline	January 14, 2022
7	PRETRIAL CONFERENCE	January 25, 2022
8	Deadline for motions to continue trial	9:00 A.M. - YAKIMA
9	Trial briefs, jury instructions, verdict forms, and requested voir dire filed and emailed to the Court	February 7, 2022
10	Witness Names Provided to Defendants. <i>See</i> ECF No. 239.	February 14, 2022
11	Exhibit binders delivered to all parties and to the Court	February 18, 2022
12	Delivery of JERS-compatible digital evidence files to the Courtroom Deputy	February 18, 2022
13	Trial notices filed with the Court	February 18, 2022
14	Technology readiness meeting (in-person)	February 22, 2022
15	JURY TRIAL	February 28, 2022
16		9:00 A.M. - YAKIMA

17 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order
18 and provide copies to all counsel, the U.S. Probation Office, and the U.S.
19 Marshals Service.

20 **DATED** this 15th day of January 2021.


SALVADOR MENDOZA, JR.
United States District Judge